IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

IN RE: ZIMMER NEXGEN KNEE IMPLANT PRODUCTS LIABILITY LITIGATION

MDL No. 2272

APPROVED FORM OF SHORT FORM COMPLAINT

This applies to:

HARVEY BARRETT, JAMES BERRY, MARY KNOX, THOMAS ROSE, JANE ESSLINGER, AND PAULA PONOMASKY

JURY TRIAL DEMAND

Plaintiffs,

vs.

Case No: 1:12cv1003

Zimmer, Inc., Zimmer Holdings, Inc., Zimmer Orthopedic Surgical Products, Inc.

Defendants.

APPROVED SHORT FORM COMPLAINT FOR

ZIMMER NEXGEN KNEE IMPLANT PRODUCTS LIABILITY LITIGATION

Plaintiff, HARVEY BARRETT, incorporates by reference Plaintiffs' Master Long Form Complaint in In Re: Zimmer NexGen Knee Implant Products Liability Litigation, MDL 2272, filed as of January 12, 2012, as Document Number 211. Pursuant to a Stipulated Order of the PSC in MDL 2272 and Counsel for Defendants, the following Short Form Complaint is approved for use in this action. Where Plaintiff's Complaint was previously transferred into

MDL 2272, this Short Form Complaint and the incorporated Master Long Form Complaint shall serve as an amended Complaint.

Plaintiff selects and indicates by checking off the appropriate spaces, those products and claims that are specific to his case. Where certain claims require specific pleadings or case specific facts and individual information, plaintiff shall add and include them herein.

1. Plaintiff, HARVEY BARRETT, states and brings this civil action before the Court for the United States District Court for the Northern District of Illinois as a related action in the matter entitled IN RE: ZIMMER NEXGEN KNEE IMPLANT PRODUCTS LIABILITY LITIGATION, MDL No. 2272. Plaintiff is filing this short form complaint as permitted and approved by Order of the MDL 2272 Court, and adopts and incorporates by reference those allegations in the Plaintiffs' Master Long Form Complaint and any and all amendments thereto.

2. This action is brought pursuant to 28 U.S.C. §1332, as diversity of citizenship exists among and between the parties.

3. Venue is proper under 28 U.S.C. §1391 as defendants named herein do business within this district.

4. Plaintiff HARVEY BARRETT is a resident and citizen of Tennessee and claims damages as set forth below.

5. Plaintiff was born on May 16, 1944.

ALLEGATIONS AS TO DEVICE(S) AND INJURIES

6. Plaintiff was implanted with Zimmer NexGen® Knee devices on his right knee on or about January 10, 2006 at Middle Tennessee Medical Center by Dr. Michael Jordan.

7. On or about January 10, Plaintiff suffered personal and economic injuries as a result of the implantation of the following Zimmer NexGen® Knee device(s):

_____ Zimmer NexGen LPS-Flex

_X___ Zimmer NexGen CR-Flex

_____ Zimmer NexGen GSF LPS-Flex

_____ Zimmer NexGen GSF CR-Flex

_____ Zimmer NexGen MIS Tibia

8. Plaintiff has not yet scheduled a revision surgery with respect to the defective Zimmer NexGen® Knee devices.

9. Plaintiff has suffered injuries as a result of implantation of the Zimmer NexGen® Knee devices manufactured by defendants as described in the forthcoming Plaintiff's Fact Sheet and other responsive documents in discovery provided to the defendants and/or obtained by the defendants through Plaintiff's authorization and are incorporated by reference herein.

10. At the time of implantation with the Zimmer NexGen® Knee devices, the plaintiff resided at 4404 Halls Hill Parkway, Murfreesboro, Tennessee 37130.

11. The defendants by their actions or inactions, proximately caused Plaintiff's injuries.

12. Plaintiff claims damages as a result of:

_X__ injury to herself/himself

___ injury to the person represented

___ wrongful death

___ survivorship action

_X__ economic loss

_X__ loss of services

___ loss of consortium

13. Neither Plaintiff nor his physicians, through the exercise of reasonable diligence, could have detected the defective nature of the Zimmer NexGen® Knee device any earlier than the evidence of loosening and/or other indication for planned revision of the defective devices, or as the facts dictate and produced in discovery.

14. As a result of the injuries Plaintiff sustained, he is entitled to recover compensatory damages for pain and suffering and emotional distress and for economic loss as well as punitive damages.

15. Plaintiff's Zimmer NexGen® Flex Knee device bears catalog number 5952-17-06 (Right) and lot number 60131946.

ALLEGATIONS AS TO DEFENDANTS
SPECIFIC ALLEGATIONS AND THEORIES OF RECOVERY

16. The following claims and allegation are asserted by Plaintiffs and are herein adopted by reference:

COUNT I – STRICT LIABILITY DESIGN DEFECT

_____ COUNT I (a) ZIMMER LPS-FLEX;

__X_____ COUNT I (b) ZIMMER CR-FLEX;

_____ COUNT I (c) ZIMMER GSF LPS-FLEX;

_____ COUNT I (d) ZIMMER GSF CR-FLEX;

_____ COUNT I (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT II – STRICT LIABILITY FAILURE TO WARN

_____ COUNT II (a) ZIMMER LPS-FLEX ;

__X_____ COUNT II (b) ZIMMER CR-FLEX;

_____ COUNT II (c) ZIMMER GSF LPS-FLEX;

_____ COUNT II (d) ZIMMER GSF CR-FLEX;

_____ COUNT II (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT III – STRICT LIABILITY MANUFACTURING DEFECT

_____ COUNT III (a) ZIMMER LPS-FLEX;

__X_____ COUNT III (b) ZIMMER CR-FLEX;

_____ COUNT III (c) ZIMMER GSF LPS-FLEX;

_____ COUNT III (d) ZIMMER GSF CR-FLEX;

_____ COUNT III (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT IV -NEGLIGENCE

_____ COUNT IV (a) ZIMMER LPS-FLEX;

__X_____ COUNT IV (b) ZIMMER CR-FLEX;

_____ COUNT IV (c) ZIMMER GSF LPS-FLEX;

_____ COUNT IV (d) ZIMMER GSF CR-FLEX;

_____ COUNT IV (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT V – NEGLIGENT MISREPRESENTATION

_____ COUNT V (a) ZIMMER LPS-FLEX;

__X_____ COUNT V (b) ZIMMER CR-FLEX;

_____ COUNT V (c) ZIMMER GSF LPS-FLEX;

_____ COUNT V (d) ZIMMER GSF CR-FLEX;

_____ COUNT V (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT VI – EXPRESS WARRANTY

_____ COUNT VI (a) ZIMMER LPS-FLEX;

__X____ COUNT VI (b) ZIMMER CR-FLEX;

_____ COUNT VI (c) ZIMMER GSF LPS-FLEX;

_____ COUNT VI (d) ZIMMER GSF CR-FLEX;

_____ COUNT VI (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT VI – BREACH OF EXPRESS WARRANTY

_____ COUNT VI (a) ZIMMER LPS-FLEX;

__X____ COUNT VI (b) ZIMMER CR-FLEX;

_____ COUNT VI (c) ZIMMER GSF LPS-FLEX;

_____ COUNT VI (d) ZIMMER GSF CR-FLEX;

_____ COUNT VI (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT VII – BREACH OF IMPLIED WARRANTY

_____ COUNT VII (a) ZIMMER LPS-FLEX;

__X____ COUNT VII (b) ZIMMER CR-FLEX;

_____ COUNT VII (c) ZIMMER GSF LPS-FLEX;

_____ COUNT VII (d) ZIMMER GSF CR-FLEX;

_____ COUNT VII (e) ZIMMER MIS TIBIAL COMPONENTS;

COUNT VIII – REDHIBITION

_____ COUNT VIII (a) ZIMMER LPS-FLEX;

_____ COUNT VIII (b) ZIMMER CR-FLEX;

_____ COUNT VIII (c) ZIMMER GSF LPS-FLEX;

_____ COUNT VIII (d) ZIMMER GSF CR-FLEX;

_____ COUNT VIII (e) ZIMMER MIS TIBIAL COMPONENTS;

_____ COUNT IX – LOSS OF CONSORTIUM

_____ COUNT X – WRONGFUL DEATH

_____ COUNT IX – LOSS OF CONSORTIUM

_____ COUNT X – WRONGFUL DEATH

_____ COUNT XI - SURVIVAL ACTION

__X____ COUNT XII – VIOLATION OF CONSUMER PROTECTION STATUTES:

Tenn. Code Ann. 47-18-109

__X____ COUNT XIII – UNJUST ENRICHMENT

__X____ COUNT XIV – PUNITIVE DAMAGES

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

1. For compensatory damages requested and according to proof;

2. For punitive or exemplary damages against Defendants;

3. For all applicable statutory damages of the state whose laws will govern this action;

4. For an award of attorney's fees and costs;

5. For prejudgment interest and the costs of suit; and

6. For such other and further relief as this Court may deem just and proper;

JURY DEMAND

Plaintiff hereby demands a trial by jury as to all claims in this action.

Dated: April 25, 2012.

Respectfully submitted,

/s/ Sheila M. Bossier
Sheila M. Bossier
BOSSIER & ASSOCIATES, PLLC
1520 North State Street
Jackson, MS 39202
Telephone: (601) 352-5450
Facsimile: (601) 352-5452

OF COUNSEL:

Richard A. Freese
Tim K. Goss
FREESE & GOSS, PLLC
Regions Harbert Center
1901 6th Avenue North
Suite 3120
Birmingham, AL 35203
Telephone: (205) 871-4144
Facsimile: (205) 871-4104

David P. Matthews
MATTHEWS AND ASSOCIATES
2905 Sackett Street
Houston, TX 77098
Telephone: (713) 522-5250
Facsimile: (713) 535-7184

CERTIFICATE OF SERVICE

I certify that on April 25, 2012, a copy of the foregoing *Plaintiffs' Short Form Complaint For Zimmer Nexgen Knee Implant Products Liability Litigation* was served, pursuant to waiver of service of summons process, F.R.C.P. 4(d) upon:

Peter Meyer
Nicole Brett
BAKER & DANIELS LLP
Suite 800
111 E. Wayne Street
Fort Wayne, IN 46802

/s/ Sheila M. Bossier
Sheila M. Bossier